IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE V.RAMKUMAR

MONDAY, THE 17TH DECEMBER 2007 / 26TH AGRAHAYANA 1929

CRL.A.No. 2467 of 2007()

AGAINST THE ORDER DATED 20/02/2007 IN MC.3/2007 IN SC.115/2006 OF THE ADDL. DISTRICT & SESSIONS JUDGE (ADHOC-II), THODUPUZHA

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APPELLANT: COUNTER PETITIONERS 2 AND 3:

1. JACOB @ SUBU, S/O.CHACKO, PUTHANPURACKAL, CHEMMANNOR KARA, KANTHIPPARA VILLAGE, UDUMBANCHOLA TALUK.

2. ANTONY, S/O.MATHEW, KALATHOOR VEETTIL, PARATHODU KARA, PARATHODU VILLAGE, UDUMBANCHOLA TALUK.

BY ADV. SRI.S.DILEEP (KALLAR)

RESPONDENTS: COMPLAINANT & 1ST COUNTER PETITIONER:

1. STATE OF KERALA REPRESENTED BY THE SUB INSPECTOR OF POLICE, SANTHANPARA, REPRESENTED BY THE PUBLIC PROSECUTOR, HIGH COURT OF KERALA, ERNAKULAM.

2. SHAJI, S/O.VARGHESE, NELLICKAL VEEDU, PARATHODU KARA, PARATHODU VILLAGE.

BY PUBLIC PROSECUTOR SRI.K.S. SIVAKUMAR

THIS CRIMINAL APPEAL HAVING COME UP FOR ADMISSION ON 17/12/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

V. RAMKUMAR, J.

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Crl.Appeal No. 2467 of 2007

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Dated: 17-12-2007

JUDGMENT

The appellants were the sureties of the first accused in S.C.No. 115 of 2006 on the file of the Addl. District & Sessions Judge (Adhoc- II), Thodupuzha . They are brothers of the first accused. The bond amount was Rs. 15,000/- for each of the appellants. Consequent on the first accused in S.C. 115 of 2006 making himself scarce and absconding, proceedings were initiated against the appellants under Sec. 446 Cr.P.C. in M.C. 3 of 2007. Eventhough they were granted time to produce the first accused they did not produce the first accused. As they had no sufficient explanation to be offered in response to the show cause notice issued in Form No. 48 in Schedule II Cr.P.C. the trial court imposed the entire bond amount as penalty on each of the appellants . Hence, this Appeal.

2. There is no dispute that the first accused in S.C. 115 of 2006 failed to appear before the trial Court . Subsequently the first accused was enlarged on bail. Considering the above

circumstances and also the impecunious in which circumstances in which the petitioners are said to have been placed, I am inclined to reduce the penalty by 50%. Accordingly, each of the appellants shall pay penalty of Rs. 7,500/- within one month from today before the court below . On failure to pay the penalty and upon satisfaction that the penalty amount cannot be recovered the appellants will have to undergo imprisonment in civil prison for a period of three months.

This Crl. Appeal is disposed of as above.

V. RAMKUMAR,
(JUDGE)

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V. RAMKUMAR,
(JUDGE)

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V. RAMKUMAR,
(JUDGE)

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